IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

RCRev..No. 241 of 2007

RCA.185/2006 of RENT CONTROL APPELLATE AUTHORITY,KOZHIKODE
RCP.103/2006 of RENT CONTROL COURT, KOZHIKODE

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REVISION PETITIONERS/APPELLANTS/RESPONDENTS 1 TO 4:

1. M.K.JAYACHANDRAN, 59 YEARS,
   S/O. K.E. GOPALAN NAMBIAR, RESIDING AT
   THACHARAKKAL PARAMBIL, HOUSE NO. 30/309,
   NELLIKKODE AMSOM, KOVOOR DESOM,
   KOZHIKODE DISTRICT.

2. SATHI JAYACHANDRAN, 50 YEARS,
   W/O. JAYACHANDRAN M.K., DO. DO.

3. JITHESH, 31 YEARS, S/O. JAYACHANDRAN,
   DO. DO.

4. TIJA JAYACHANDRAN, 26 YEARS, DO. DO.

BY ADV. SRI.M.P.MOHAMMED ASLAM

RESPONDENT/RESPONDENT/PETITIONER:

P.P.FATHIMA, 46 YEARS, W/O.C.M.HABEEB RAHMAN, RESIDING AT MUMTAS MANZIL, CHELAVOOR AMSOM &DESOM, KOZHIKODE TALUK, KOZHIKODE DISTRICT.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 31/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

R.C.R.No. 241 of 2007

ORDER

Balachandran, J.

Tenants are the revision petitioners. The respondent filed R.C.P.No.103/06 before the Rent Control Court, Kozhikode under Sections 11(2)(b), 11(3) and 11(8) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as 'the Act') seeking eviction of the petitioners from the scheduled building. The Rent Control Court allowed eviction under Sections 11(2)(b) and 11(3) of the Act, but, negatived the claim for eviction under Section 11(8) of the Act. The petitioners/ tenants filed R.C.A.No.185/06 before the Rent Control Appellate Authority, Kozhikode challenging the correctness of the order of eviction passed by the Rent Control Court under Sections 11(2)(b) and 11(3) of the Act. The appellate authority dismissed the appeal concurring with the findings

of the Rent Control Court and confirming the order of eviction passed under Sections 11(2)(b) and 11 (3) of the Act.

2. The learned counsel for the petitioners made strenuous attempts, by taking us through the evidence in the case, to contend that the finding regarding bona fides in the need advanced for the scheduled building for its renovation along with a portion of the building in the possession of the respondent/landlady for residence of her married son is not genuine. We find that it is after a thorough appreciation of the entire evidence adduced in the case that the authorities below have concurrently entered into findings of fact and it was on the basis thereof that eviction was ordered both under Section 11(2)(b) of the Act as also under Section 11(3) of the Act. There is no illegality, irregularity or impropriety in the findings of fact arrived at by the authorities below and no interference is called for in revision

by this Court. This revision, in the circumstances, is devoid of merit and deserves only to be dismissed.

3. Finally, it is urged by the counsel for the petitioners that reasonable time be granted to the petitioners to enable them to search out another building, to vacate the premises and hand over possession of the scheduled building to the respondent/landlady. The request so made deserves to be considered favourably.

In the result, we dismiss this Rent Control Revision. But, at the same time, we grant the petitioners time till 31.12.2007 to surrender vacant possession of the scheduled building to the respondent/landlady on the following conditions:

i. that they shall deposit the entire arrears of rent in the execution court with a detailed statement as to its correctness within three weeks from today.

ii. that they shall file affidavit before the execution court within one month from today, reporting that all arrears of rent are cleared and unconditionally undertaking that they will surrender vacant possession of the scheduled building to the respondent/landlady positively on or before 31.12.2007 and that they will continue to pay the future monthly rents on the due dates itself till they actually surrender vacant possession of the scheduled building to the respondent/landlady and

iii. that in case the petitioners fail to comply with the above conditions, they shall not be entitled to the benefit of continuing in occupation of the scheduled building till 31.12.2007 and shall be liable to be evicted immediately on the expiry of the aforesaid one month in execution of the order of eviction passed against them.

Registry shall communicate a copy of this order to the respondent/landlady at the expense of the

petitioners, as we are disposing of this revision at the admission stage itself, without issuing notice to the respondent/landlady.

(J.B.Koshy, Judge)

31st July, 2007

(K.P.Balachandran, Judge)

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